

Court of Appeals, State of Michigan

ORDER

People of MI v Marcellus Travan Emerson

Docket No. 296610

LC No. 06-027772-FH

Jane E. Markey
Presiding Judge

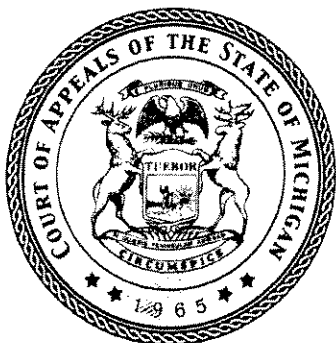
David H. Sawyer

Jane M. Beckering
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the July 17, 2007, judgment of sentence and REMANDS this case for resentencing within the statutory sentencing guidelines range. In the event the sentencing court departs from such range, the court must state on the record substantial and compelling reasons to justify its departure, see *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003), and explain why the sentence imposed is more proportionate than a sentence within the guidelines recommendation would have been, *People v Smith*, 482 Mich 292, 304; 754 NW2d 284 (2008).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Sawyer, J., would deny the delayed application.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 30 2010

Date

Sandra Schultz Mengel
Chief Clerk